

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Manuel Seavaun Young, #228856 (CCDC),)	
fka Manuel Seacaun Young, # Y-241942,)	C/A No. 2:11-0837-MBS-BM
)
Plaintiff,)	
)
vs.)	O R D E R
)
Officer M. Burke; Officer NFN Mulkey;)	
Officer NFN Cole; Officer NFN Engles;)	
City of Charleston Police Department;)	
Attn Cassandra L. Winslow; Attn Ann B.)	
Walsh,)	
)
Defendants.)	
)

Plaintiff Manuel Seavaun Young is a federal prisoner currently detained at the Charleston County Detention Center in Charleston, South Carolina. Plaintiff, proceeding pro se, brought this action on April 8, 2011, alleging that his constitutional rights were violated in various respects.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this case was referred to United States Magistrate Judge Bristow Merchant for pretrial handling. On April 28, 2011, the Magistrate Judge filed a Report and Recommendation in which he recommended that Plaintiff's complaints regarding matters that resulted in his federal convictions are subject to summary dismissal because a right of actions has not accrued. See Heck v. Humphrey, 512 U.S. 477 (1994). The Magistrate Judge further recommended that Defendants Winslow and Walsh, both of the Federal Public Defender's Office, be summarily dismissed because they are not state actors within the meaning of 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). In addition, the Magistrate Judge recommended that Defendant City of Charleston Police Department be summarily dismissed because the complaint contains no allegations of improper action by this Defendant. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs with the Magistrate Judge’s recommendations and incorporates the Report and Recommendation herein by reference. The court dismisses from this action Defendants City of Charleston Police Department, Cassandra L. Winslow, and Ann B. Walsh, as well as all claims asserted in the complaint except Plaintiff’s claim alleging excessive use of force during his arrest. The dismissals are without prejudice and without issuance and service of process on these Defendants. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

May 25, 2011.